IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

TUESDAY, THE NINTH DAY OF NOVEMBER
TWO THOUSAND AND FOUR

PRESENT

THE HON'BLE SRI JUSTICE N.V. RAMANA

WRIT PETITION NO.3836 of 1994

Between:

1. Siva Kumar S/o Sankarappa, aged 30 years, Occ: Agriculture

R/o. Khammam Nacharam, Doma (M), R.R.District

2. Siddappa, s/o Veerappa, R/o Khammam Nacharam, Doma (Mandal), R.R.

District.

3. A. Lakshmaiah, s/o Basappa, R/o Khammam Nacharam, Doma (Mandal), R.R.

District.

4. V. Chinna Venkataiah, s/o Tirumalaiah, R/o Dornalpalli, Doma Mandal, R.R.

District.

5. J. Pedda Mogulaiah,s/o Narsaiah, R/o Dornalpalli, Doma Mandal, R.R.

DisItrict.

6. Boini Chinna Ramulu, s/o Chinna Eswappa, R/o Dornalpalli, Doma

Mandal, R.R. District.

..... PETITIONERS

AND

1. The ExecutiveEngineer, Irrigation Department, Rangareddy District, Red Hills, Hyderabad.
2. The Assistant Engineer, Irrigation Department, Parigi, R.R. District.
3. The Revenue Divisional Officer, Chevella, R.R. District, Domalguda, Hyderabad.
4. The Mandal Revenue Officer, Doma Mandal, Rangareddy District.

.....RESPONDENTS

Petition under Article 226 of the Constitution of India praying that in the circumstances stated in the affidavit filed herein the High Court may be pleased to issue Writ, order ordirectionmore particularly one in the nature of Writ of Mandamus declaring the action of the respondents in raising the Alugu height of Doma Pedda Cheruvu of Doma Mandal, Rangareddy District by 1 ½ is void, illegal, arbitrary, violation of principles ofnatural justice and violation of constitutional rights.

Counsel for the Petitioners: MR.K.VIJAYA RAO (died)(No representation o behalf of the petitioners in spite of serving notices)

Counsel for the Respondents: GP FOR IRRIGATION & COMM AREA DEV.

The Court made the following order:

ORDER:

The case of the petitioners is that their lands are nearer to and just above the tank called as Doma Pedda Cheruvu and the respondents are proposing to raise Alugu of the said tank without initiating land acquisition proceedings. According to the petitioners, if the Alugu of the said tank is raised, their lands will be submerged under the said project and the action of the respondents in proposing to raise the height of Alugu without initiating land acquisition proceedings is illegal and arbitrary. Hence, this writ petition.

While admitting the writ petition, this court granted interim stay of proposed construction by order dated 8-3-1994. The respondents filed counter affidavit praying to vacate the stay order. It is stated therein, that the proposed raising of Alugu of the tank in question is taken only after conducting a detailed survey and it is beneficial for the farmers since hundreds of acres would come under cultivation by raising the height of the Alugu. It is categorically stated that the construction work would be taken up only after completing the formalities under the provisions of the Land Acquisition Act.

As it was brought to the notice of the court that the petitioners' counsel died, this court by order dated 7-8-2003 directed notices to the petitioners.

Office note shows that notices were served on petitioners 1, 2 and 4 to 6 and notice sent to petitioner No.3 was returned with endorsement 'died'. In spite of service of notice, no vakalat is filed so far by any other counsel nor any representation is on

behalf of the petitioners.

When the matter is taken up for hearing, the learned Government Pleader for Irrigation on instruction submits that because of the stay orders granted by this court all the further proceedings in regard to construction of the project are stalled and once the stay order is vacated, the respondents will go ahead with the proposal after following the due procedure contemplated under the Land Acquisition Act.

Having regard to the undertaking given by the respondents in the counter that the work would be taken up only after following the procedure contemplated under the Land Acquisition Act and in view of the representation made by the learned Government Pleader that the respondents would abide by the stand taken by them in the counter, I deem it appropriate to dispose of the writ petition with the following directions:

The respondents shall strictly follow the due procedure of law contemplated under the Land Acquisition Act before undertaking the construction work of raising height of the tank in question. The writ petition is accordingly disposed of. No costs.

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9-11-2004

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To

1. The Executive Engineer, Irrigation Department, Rangareddy District, Red Hills, Hyderabad.

2. The Assistant Engineer, Irrigation Department, Parigi, R.R. District.

3. The Revenue Divisional Officer, Chevella, R.R. District, Domalguda, Hyderabad.

4. The Mandal Revenue Officer, Doma Mandal, Rangareddy District.

5. Two CCs to GP for Irrigation and Comm. Area Development, High Court of AP., Hyderabad (OUT)

6. Two CD copies.